

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY WALTHALL,

Plaintiff,

v.

JAMES R. CHYLINSKI,

Respondent.

Case No. 14-14908

Honorable Laurie J. Michelson

**ORDER TRANSFERRING SUCCESSIVE HABEAS PETITION TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Petitioner Larry Walthall, presently serving a term of life imprisonment in a Michigan correctional facility, filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254. (Dkt. 1.) Petitioner challenges his state court convictions for first degree murder and possession of a firearm during commission of a felony. The Court finds this is a successive habeas corpus petition and therefore orders it transferred to the United States Court of Appeals for the Sixth Circuit under 28 U.S.C. § 2244(b)(3)(A).

Under the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), 28 U.S.C. § 2241 *et seq.*, an individual seeking to file a “second or successive” habeas petition must ask the appropriate court of appeals for an order directing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998); *In re Wilson*, 142 F.3d 939, 940 (6th Cir. 1998). This requirement transfers to the court of appeals a screening function the district court previously performed. *Felker v. Turpin*, 518 U.S. 651, 664 (1996).

Petitioner challenged his convictions in three prior habeas actions. The first petition was denied on the merits. *Walthall v. Stegall*, No. 92 72577 (E.D. Mich. Jan. 26, 1993). The second petition was transferred to the Sixth Circuit. *Walthall v. Stegall*, No. 99 71382 (E.D. Mich. May 30, 2000). The Sixth Circuit denied permission to file a second petition. *In re: Larry Walthall*, No. 00 1628 (6th Cir. Oct. 26, 2000). The Sixth Circuit likewise denied Petitioner's third attempt to file a habeas action. *In re: Larry Walthall*, No. 14-1127 (6th Cir. Sept. 29, 2014). Petitioner cannot proceed with this fourth attempt without first acquiring permission to file a successive habeas petition from the Court of Appeals.

Therefore, the Clerk of Court is **ORDERED** to transfer the habeas petition to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

Petitioner's Motion for Appointment of Counsel (Dkt. 2) is **DENIED AS MOOT**.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: January 22, 2015

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on January 22, 2015.

s/Jane Johnson
Case Manager to
Honorable Laurie J. Michelson